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LOK SABHA

The following Bill was introduced in Lok Sabha on the 12th September, 1958:—

*BILL No. 102 OF 1958

A Bill further to amend the High Court Judges (Conditions of Service) Act, 1954.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

(1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1958. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 1st day of November, 1956.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in sub-section (1), in clause (g), for the words "and acting Chief Justice of a High Court", the words "an acting Chief Justice, an additional Judge and an acting Judge of the High Court" shall be substituted. Amendment of section 2

3. In section 6 of the principal Act, for the words "and not more than once", the words "or for two or more periods, not exceeding in the aggregate, six months" shall be substituted. Amendment of section 6.

15 4. In section 8 of the principal Act, for the words "Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once", the words "Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods, not exceeding in the aggregate, six months" shall be substituted. Amendment of section 8.

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*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

Amendment
of section
14.

5. In section 14 of the principal Act, after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that if a Judge at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service in the Union or a State, the pension payable under this Act shall be in lieu of, and not in addition to, that pension.”.

Amendment
of section
18.

6. In section 18 of the principal Act, the proviso shall be omitted.

Insertion of
new section
23A and
23B.

7. After section 23 of the principal Act, the following sections shall be inserted, namely:—

Vacation of
High
Courts.

“23A. (1) Every High Court shall have a vacation or vacations for such period or periods as may, from time to time, be fixed by the President, by order notified in this behalf in the Official Gazette, and every such order shall have effect notwithstanding anything contained in any other law, rule or order regulating the vacation of the High Court.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Special
provisions in
respect of
continuing
Judges.

23B. (1) In the calculation of the service for pension of a continuing Judge for the purposes of this Act, his previous service for pension as a Chief Justice or as a Judge of a former High Court in a Part B State, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be reckoned as service for pension as a Chief Justice or, as the case may be, as a Judge under this Act.

(2) In the calculation of the amount of leave at the credit of a continuing Judge for the purposes of this Act, the amount of leave due to him immediately before the 1st day of November, 1956, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be added to the amount of leave at his credit under this Act.

(3) In this section, “continuing Judge” means a Judge of a former High Court in a Part B State who on the 1st day of November, 1956, or on any date subsequent thereto has become or been appointed as a Judge of a High Court for a State.”.

Amendment
of section
24.

8. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as

may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following."

9. Section 25 of the principal Act shall be re-numbered as sub-^{Amendment of section 25.} section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Nothing contained in this Act, as amended by the High Court Judges (Conditions of Service) Amendment Act, 1958, shall have effect so as to give to a Chief Justice or a Judge of a former High Court in a Part B State less favourable terms in respect of his allowances or his rights in respect of leave of absence (including the leave allowances) or pension than those to which he would be entitled under the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, if he had continued as a Judge of that High Court, his service as a Judge on or after the 1st day of November, 1956, being treated as service in that High Court."

10. In the First Schedule to the principal Act,—

Amendment of the First Schedule.

(a) in Part 1, to paragraph 9, the following proviso shall be added, namely:—

"Provided that nothing in this paragraph shall apply—

(a) to an additional Judge or acting Judge; or

(b) to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State."

(b) in Part II, for paragraph 3, the following paragraph shall be substituted, namely:—

"3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale:—

	Per annum.
	Rs.
For seven completed years of service for pension	.. 1,333
For eight completed years of service for pension	.. 1,600
For nine completed years of service for pension	.. 1,866
For ten completed years of service for pension	.. 2,133
For eleven completed years of service for pension	.. 2,400
For twelve or more completed years of service for pension	.. 2,666

STATEMENT OF OBJECTS AND REASONS

The High Court Judges (Conditions of Service) Act, 1954, lays down the conditions of service of Judges of the High Courts. When it was enacted, there was no provision in the Constitution for the appointment of acting or additional Judges in High Courts. Such a provision was introduced by an amendment of the Constitution with effect from the 1st November, 1956. It is, therefore, proposed to provide that service rendered by acting and additional Judges of High Courts shall count as service as a Judge for the purposes of High Court Judges (Conditions of Service) Act, 1954.

2. A number of Judges of the former High Courts in Part B States are now functioning as Judges of High Courts on the reorganisation of States. It is proposed to provide that their previous service for pension under the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to them should be added to their service for pension under the Act of 1954. It is further proposed that the amount of leave standing at their credit on the 31st October, 1956, should be added to their leave account under the Act of 1954.

3. Certain minor as well as clarificatory amendments, which have been found necessary as a result of the working of the Act of 1954, have also been included in this Bill.

NEW DELHI;

GOVIND BALLABH PANT.

The 9th September, 1958.

FINANCIAL MEMORANDUM

Clause 2 of the Bill enlarges the definition of the word "Judge" so as to include an acting Judge and an additional Judge. Service rendered as an acting Judge or an additional Judge would, therefore, count for service for the purposes of leave and pension. This would involve some small additional expenditure to Government.

2. A number of Judges of the former High Courts in Part B States are now functioning as Judges of High Courts. The proposed section 23B in clause 7 of the Bill provides that their previous service for pension under the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to them should be added to their service for pension under the Act of 1954. It is further provided that such Judges should be enabled to carry forward the leave standing at their credit on 31st October, 1956, under the rules then applicable to them and to enjoy it under the Act of 1954. The amount of pension and leave allowances admissible under the order of 1953 were slightly less than those admissible under the Act of 1954. This may involve some extra expenditure to Government, but it is not possible to calculate the additional burden on this account. The extra expenditure is not, however, expected to be appreciable.

3. The Bill, if enacted and brought into operation, might involve some additional expenditure on account of leave allowances and pension payable to Judges. The expenditure involved on account of leave allowances will be a charge on the Consolidated Fund of the States concerned whilst the pensions payable to such Judges are first charged on the Consolidated Fund of India and recovered from the States concerned.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proposed section 23A in clause 7 of the Bill seeks to empower the President to regulate the vacation of each High Court by order notified in the Official Gazette. Different orders may have to be issued for different High Courts and such orders may also have to be revised from time to time. It is not, therefore, possible to lay down the period of vacation to be enjoyed by each High Court in the Bill itself. Every such order will, however, be laid before each House of Parliament. The delegation of legislative power is thus of a normal character.

M. N. KAUL,
Secretary.